Child and Youth Guardianship Services

2011 – 2012 Report

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

MISSION

The Public Guardian and Trustee is appointed to safeguard and uphold the legal and financial interests of children; manage the legal, financial and personal care interests of adults needing assistance in decision making; and administer the estates of deceased and missing persons.

VALUES

Seven major values underpin PGT work and are reflected in all aspects of PGT performance:

1. ***Integrity:*** We act in accordance with the highest ethical, legal and personal standards.

2. ***Client Centred Service:*** We constantly strive to provide quality customer service to our clients who are the focus of our services.

3. ***Openness:*** We demonstrate responsibility and transparency to clients, government and the public through annual statutory public reporting on all aspects of our performance.

4. ***Respect:*** We treat clients, family and friends in a courteous, respectful manner.

5. ***Teamwork:*** We work with one another and with service partners in striving for seamless service delivery.

6. ***Staff Support:*** We acknowledge staff as our greatest resource and recognize and appreciate their expertise, professionalism and commitment.

7. ***Innovation:*** We challenge ourselves to seek new and improved ways to deliver service and assist clients.

Executive Summary

This is the fourth annual report (2011-2012) describing the services provided by the Public Guardian and Trustee (PGT) to minor children and youth for whom the PGT is guardian of estate[1]. Most of these young people are in continuing care of the province. This report outlines the services provided by the PGT, the challenges in delivering them and the opportunities for continued improvement.

The PGT, through its Child and Youth Services division, provided services to approximately 20,300 child and youth clients in 2011-2012 under a variety of legal authorities including as guardian of estate.

These services include acting as guardian of estate or trustee and providing protective legal review services. This report focuses on PGT guardian of estate services delivered between April 1, 2011 and March 31, 2012. Data from previous years is also presented for a fuller understanding. The PGT was guardian of estate for 4,949 children and youth at March 31, 2012.

Part 1 (Introduction) provides general information on the child protection system in British Columbia and the role of the PGT in child guardianship.

Part 2 (Guardian of Estate Services) describes the services provided by the PGT to its guardian of estate clients. The PGT is coguardian with the Ministry of Children and Family Development (MCFD) or Delegated Aboriginal Child and Family Service Agencies (DAAs) for all children under a continuing custody order. This represents the majority of children and youth for whom the PGT is guardian of estate. This section of the report also identifies and summarizes information regarding these children and youth.

The PGT identifies and pursues financial benefits on behalf of its children and youth guardianship clients. During 2011-2012, the PGT collected over $850,000 in financial entitlements and benefits including $656,000 from Canada Pension Plan Children's Benefits and administered almost $1 million held in 287 Registered Disability Savings Plans on behalf of these children and youth. It also administered 928 trust funds for guardianship clients at March 31, 2012 with total assets valued at more than $6.6 million and a further $1.8 million in trust fund assets invested in the PGT Balanced Growth Fund.

The PGT provides a wide range of civil legal services in carrying out its duties as guardian of estate, including advancing claims for damages arising from motor vehicle accidents, ensuring that children and youth receive inheritances to which they are entitled and initiating claims for damages for loss and injury such as that arising from physical or sexual assault. During 2011-2012, 377 legal matters were concluded and 21 judgments, settlements and other financial outcomes generated more than $972,000 in funds for child and youth guardianship clients.

The PGT has now concluded a total of 1,339 related legal matters over the past five years with an additional 536 matters still pending. The largest categories of legal matters over this period have been personal injury arising from sexual assault (30%), other personal injury (22%) and

1. Note that as of March 18, 2013 the term "guardian of estate" was changed to "property guardian" in accordance with the new *Family Law Act*. As this report covers fiscal year 2011-2012, the former term is used in this report.

injury arising from motor vehicle accidents (16%), *Family Compensation Act* (6%) and wills and estates (5%). The primary outcomes from legal matters over the five year period has been issuing a legal information letter at age of majority (51%), PGT not pursuing claim (16%), other including matter stayed, discontinued, dismissed (11%), settlement reached (9%) and child assumed conduct of legal action at age 19 (4%).

Part 3 (Critical Incident Reports) is a summary of the critical incident reports (CIRs) received primarily from MCFD and DAAs for children for whom the PGT is guardian of estate. MCFD and DAAs refer to these as Initial Reportable Circumstances. The PGT reviews each report and determines whether further action is required to protect the legal and/or financial interests of the child or youth. This section describes the types of reports, the PGT response and includes a statistical summary of the reports. The PGT received 738 CIRs involving 512 children during 2011-2012, of which two or more reports were received for 134 children. No harm occurred in 266 (36%) of the reported incidents and the PGT took no further action.

Harm occurred in 472 (64%) of the reported incidents. These reports included the following:

- Physical and/or sexual assault accounted for 258 (55%) incidents involving harm.
- Motor vehicle accidents accounted for 73 (15%) incidents involving harm.
- Suicide attempts accounted for 38 (8%) incidents involving harm.

Of the reported incidents in which harm occurred, 136 involved incidents, such as a medical emergency, in which no persons were alleged to have harmed the child or youth. Of the incidents in which harm occurred, 336 involved an alleged harmer, that is, a person who allegedly directly harmed a child, whether intentionally or by accident. Examples include the following:

- 67 (20%) of these incidents involved other friend(s) or acquaintance(s), and boyfriends, girlfriends or spouses of the child or youth.
- 67 (20%) of these incidents involved foster parent(s) or unrelated caregivers.
- 48 (14%) of these incidents involved parents and other relatives as the alleged harmer(s).

Readers should exercise caution in interpretation of the critical incident data in this report. It is drawn from critical incident reports as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these critical incident reports should be drawn from their inclusion in this report. This report is about guardian of estate services delivered by the PGT and does not refer to services provided to children and youth by other organizations.

Part 4 (Challenges and Opportunities) outlines some of the major opportunities and challenges to the delivery of child guardianship services in British Columbia. These include addressing significant issues associated with timely access to information for the PGT, improving transitional supports for youth moving to adulthood, increasing financial literacy for child and youth guardianship clients and the need for law reform to modernize and clearly define powers and duties of public guardianship of children and youth and provision for ensuring that children and youth in care who are served outside of a continuing custody order have access in practice to guardian of estate services.

Appendices include a Glossary of Terms and Acronyms, a description of the classification systems applied to CIRs by the PGT and additional statistical results.

Message From the Public Guardian and Trustee

As guardian of estate (now called property guardian), the role of the PGT is to protect the legal and financial interests of the children and youth it serves. I am pleased to issue this fourth annual report on Child and Youth Guardianship Services, which outlines specific information about the PGT's range of services to children and youth in continuing care including providing a description of the measures taken by the PGT in response to critical incident reports received concerning these children and youth.

As guardian of estate, the PGT role is to protect the legal and financial interests of the children and youth in continuing care. Guardianship responsibilities for each child and youth in continuing care are shared with the Ministry of Children and Family Development (MCFD) or one of the Delegated Aboriginal Child and Family Service Agencies (DAAs) who act as guardian of person. As part of their responsibilities, MCFD and the DAAs provide the PGT with critical incident reports concerning children and youth in care which detail circumstances of events in which a child was at risk of harm or was injured.

There were many accomplishments during the period covered by this report. The PGT reviewed approximately 730 critical incident reports and took legal action on behalf of its clients where viable legal claims were identified. As a result of those legal actions, the PGT recovered more than $972,000 for its guardian of estate clients. Over the last five years, the PGT has recovered approximately $6.7 million for its child and youth guardianship clients by way of judgments, settlements or other awards. This financial compensation enables the children and youth who have been injured or suffered loss to obtain rehabilitative services and other supports and to mitigate the impact of their injury and loss on their future lives.

As guardian of estate, the PGT's role also includes securing additional financial benefits for its clients. To this end, the PGT established Registered Disability Savings Plans for its eligible child and youth clients allowing them to take advantage of federal grants available to beneficiaries of registered plans. In 2011-2012, the PGT secured $850,000 in financial benefits on behalf of its child and youth guardianship clients.

Another highlight from the period covered by this report was the PGT's continued focus on improvements to its transition planning services. One of the most important roles of the PGT is to help clients make the transition into adulthood and independent living. Working both independently and together with service partners, the PGT developed financial literacy training modules, which PGT staff now use to deliver financial literacy education to transitioning youth.

A role that is a particular privilege is serving as trustee of the Public Guardian and Trustee Education Assistance Fund. The fund was established in 1989 with the purpose of providing financial assistance to former youth in continuing care in BC to help them further their academic education or vocational training. In 2011-2012, the PGT distributed nearly $19,000 in bursaries ranging from $800 to $2,100 to 16 former youth. I am pleased to see the recipients' wide variety of career goals, which range from social work and education to business administration and journalism and am proud to be able to support them in their endeavours.

The PGT is committed to developing its capacity to provide quality guardian of estate services and to promoting improved outcomes for children and youth in care. The office looks to continue to build upon the important work done over the past year, including strengthening its working relationship with coguardians, MCFD and the DAAs.

I thank all PGT staff for working so diligently to help fulfill this office's mandate with passion, conviction and resiliency. I also thank our many stakeholders and partners for their valuable contributions to the PGT and to its child and youth clients. I look forward with enthusiasm to what the year ahead will bring as we continue to protect the legal and financial interests of British Columbia's children and youth in care.

Original signed by

Catherine M. Romanko
Public Guardian and Trustee

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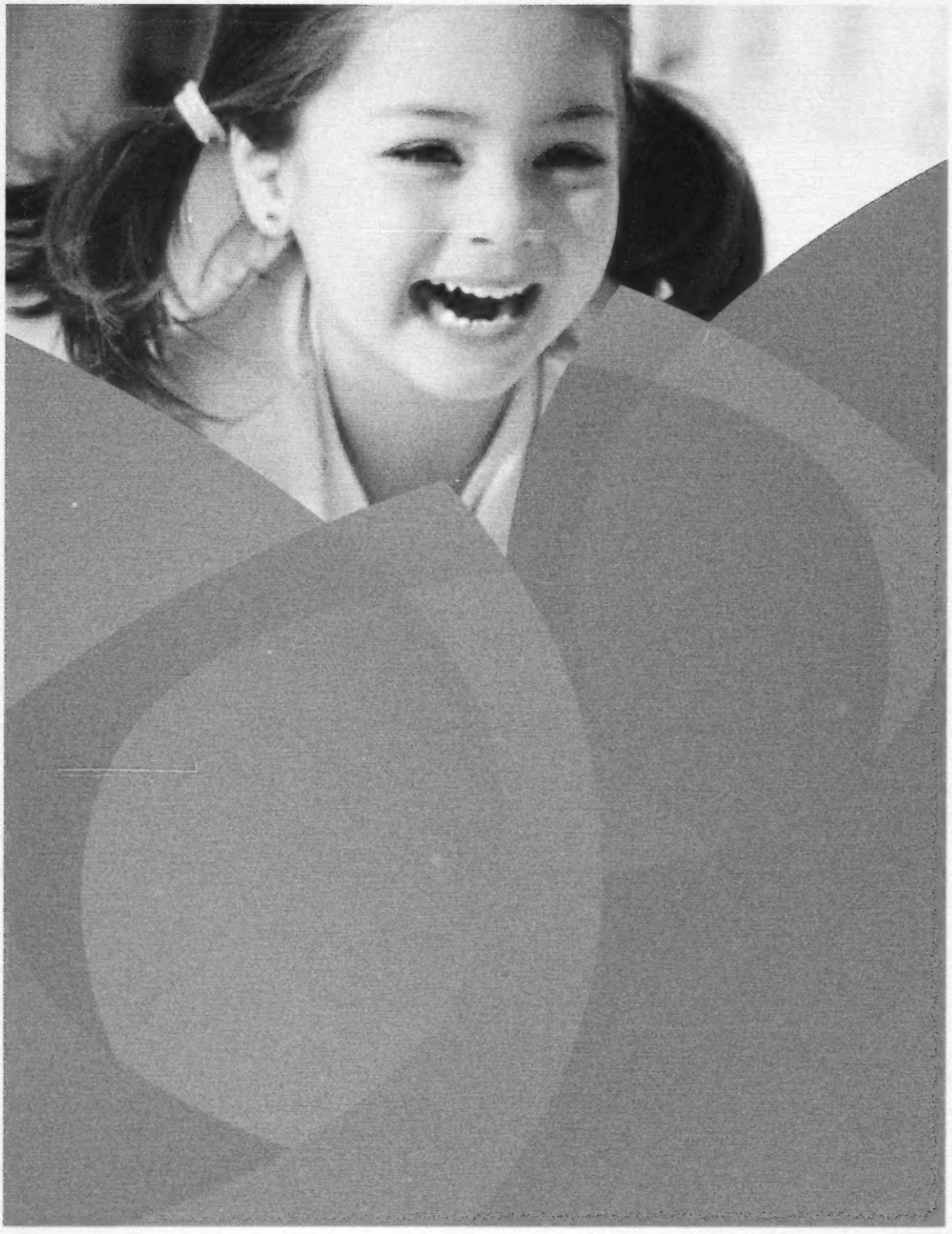
Introduction 1



Child Protection and Guardianship

The delivery of child protection and guardianship services in British Columbia involves the following public agencies, elected officials and courts. While all share the common goal of supporting children at risk, each has a unique role.

Ministry of Children and Family Development (MCFD) – takes children at risk into care and ensures their day to day needs are met as guardian of person; coguardian with the PGT for children in continuing care

Delegated Aboriginal Child and Family Service Agencies (DAAs) – Aboriginal agencies with statutory delegated authority for child protective services for Aboriginal children and youth at risk as well as non statutory voluntary services; some DAAs have guardian of person responsibilities and are coguardian with the PGT for children in continuing care

Public Guardian and Trustee (PGT) – as guardian of estate, protects the legal and financial interests of minor children; coguardian with MCFD and DAAs for children in continuing care

Representative for Children and Youth (RCY) – Officer of the BC Legislature responsible for monitoring child protection services in BC

Supreme Court of British Columbia – with respect to matters of guardianship of estate, the Supreme Court may hear matters of custody, property interests and claims for damages for personal injury

Provincial Court of British Columbia – with respect to matters of guardianship of estate, the Provincial Court grants child protection orders including continuing custody orders, may order transfer of guardianship, and adjudicates small claims involving personal injury

Select Standing Committee on Children and Youth – committee established by the BC Legislature to provide legislative oversight on provincial services to children

Children's Forum – information sharing forum for BC senior officials with an interest in child protection and related services; includes the PGT, MCFD, RCY, Chief Coroner, Provincial Health Officer and Ombudsperson

Part 1. Introduction

Legal responsibilities for protecting the interests of children in British Columbia are shared by parents, other guardians and a number of public institutions and organizations. These responsibilities are of particular significance with respect to children and youth in continuing care of the province.

The Public Guardian and Trustee (PGT) provides a range of protective services to children and youth. In particular, the PGT protects the legal and financial interests of children and youth in continuing care of the province by acting as their guardian of estate.

This report describes PGT child and youth guardianship services during 2011-2012. It provides an analysis of critical incident reports received with respect to children and youth in continuing care.

Readers should note that this report focuses on activities of the PGT rather than of the entire child protection system. This means that some of the data reported may vary from that reported by MCFD or other agencies.

Photos are representations of children in different age groups and are not photos of actual children served by the PGT as guardian of estate.

About the Public Guardian and Trustee

The PGT has a unique statutory role to protect the legal and financial interests of British Columbians who lack legal capacity to protect their own interests. Specifically, the PGT mandate is to:

- Protect the legal and financial interests of children and youth under the age of 19;
- Protect adults who require assistance in decision making through protection of their legal rights, financial interests and personal care interests; and
- Administer estates of deceased persons, estates of missing persons, and act as trustee of personal trusts.

The PGT operates through three primary program areas: Child and Youth Services, Services to Adults and Estate and Personal Trust Services. These services are provided by the combined effort of 249 dedicated individuals and expenditures of about $25 million. The PGT is largely funded by fees and commissions charged to clients and also receives voted funds from the BC provincial government.

As of March 31, 2012, the PGT managed $914 million of client assets and had served approximately 31,600 clients throughout the 2011-2012 fiscal year. Children and youth comprise approximately 20,300 of the PGT clients and their assets were valued at more than $184 million at March 31, 2012.

More information about the PGT is available at www.trustee.bc.ca or through the contact information listed in this report.

PGT Child and Youth Services

The PGT acts on behalf of minor children and youth under a number of provincial laws. This work can be grouped into three broad service categories:

Guardian of estate: The PGT protects the legal and financial interests of children and youth in the continuing care of the province, or those undergoing adoption, orphans, and in some limited cases, children in temporary care. More details about these services are provided in Part 2 of this report.

Trustee: The PGT invests and manages funds for children from a number of different sources. These funds may include personal injury settlements or court awards (such as from motor vehicle accidents), life insurance payments or inheritances. Funds also include part of the wages paid to child actors. Funds are typically held in trust until the child turns 19 (age of majority in BC), but may be used earlier if it is in the best interests of the minor.

Protective legal reviews: The PGT reviews all proposed settlements of personal injury or *Family Compensation Act* claims involving minors to ensure the settlements are in the best interests of the children or youth. For example, such claims may relate to motor vehicle accidents, medical malpractice or the death of a parent or guardian. The PGT also investigates concerns about trusts and estates in which a minor may have an interest to ensure that the minor's interests are protected.

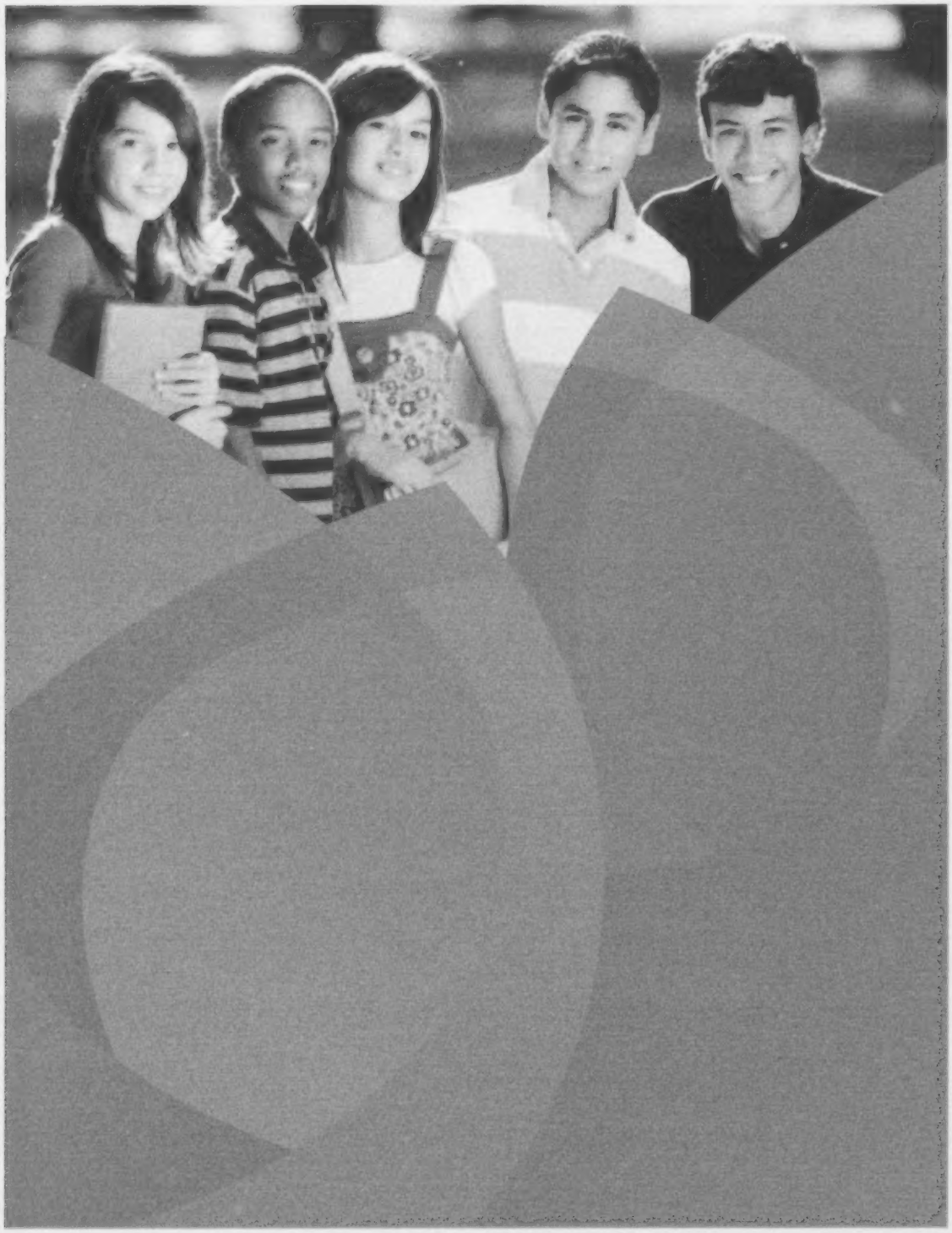
PGT guardianship and trustee duties for children and youth often overlap. For example, some children in continuing care are orphans who have inherited the estates of their parents. Other children own property or investments. In all instances, the PGT manages these assets in the best interests of the child.

The PGT is independent of all governments and other organizations in its case related decision making responsibilities. The PGT has a fiduciary duty to advance the private interests of its clients even when they conflict with those of government or other organizations.

PGT Child and Youth Services 2011-2012	
Total Staff:	**46.5**
Total Clients*:	**20,258**
Guardianship	6,157
Trust	11,448
Legal	3,914
Financial indicators:	
Revenue (Actual)	$2.5 million
Expenses (Actual)	$7.4 million
Total value of assets under administration (at March 31, 2012):	**$184 million**
Investments and securities	$178 million
Real property	$6 million
Other	$0.5 million

**Client counts reflect the number of individual clients by both program area and by the division. Because of this, the division total does not equal the sum of the program areas as clients may be served by more than one program.*

Guardian of Estate Services 2



Part 2. Guardian Of Estate Services

When children lose their parents and have no one else to look after them, or when parents are no longer able to look after their children, the province takes on the duties of guardian. These minor children and youth are among the most vulnerable members of society.

The law of British Columbia splits the duties of public guardianship into two parts:

- **Guardian of person** – finding a safe home where the child or youth can grow to adulthood and otherwise providing a parenting role to the minor. This role is taken on by MCFD or DAAs.
- **Guardian of estate** – looking after the financial and legal interests of the child or youth. This role is performed by the PGT.

Dividing guardianship duties is in the best interests of the child as it avoids conflict of interest situations. For example, protecting the financial and legal interests of a minor may mean disagreeing with the coguardian or taking legal action in cases of potential negligence by the coguardian. Because of this inherent conflict, an independent agency such as the PGT is better suited to act as financial and legal guardian rather than the guardian of person agency.

PGT duties as guardian of estate are based on provincial law as outlined in the *Public Guardian and Trustee Act*; the *Child, Family and Community Service Act*; the *Adoption Act*; the *Infants Act*; and the *Family Relations Act* (which was replaced by the *Family Law Act* on March 18, 2013). These are historic responsibilities and are still described in BC statutes with reference to the *English Tenures Abolition Act* of 1660.

The PGT provides guardian of estate services to minor children and youth in BC if they:

- have a living parent or guardian, but the courts have directed the province to take on the continuing role of raising the children as the natural parent or guardian can no longer do so;
- have no surviving parent or legal guardian; or
- are undergoing adoption.

In limited circumstances, the PGT may also provide guardian of estate services to children in the temporary care of the province.

Becoming a Guardian of Estate Client

During 2011-2012, each month, approximately 70 children or youth became PGT guardian of estate clients, usually due to a continuing custody order being granted by the Provincial Court of British Columbia. At March 31, 2012, approximately 57% of the children in care of MCFD and DAAs were the subject of a continuing custody order and thus received guardian of estate services from the PGT. The remaining 43% received services under an alternative care arrangement and therefore the PGT was not their guardian of estate.

When the court places a child in continuing care, the law requires the guardian of person - MCFD or DAAs - to notify the PGT that the court has made this order. The PGT relies on this notification because, under the law, it has no direct involvement in the child protection court proceedings prior to the granting of a continuing custody order.

Serving Aboriginal Children and Youth

When acting as guardian of estate, the PGT is coguardian with the organization acting as guardian of person for children and youth. In the past, this was almost exclusively MCFD but now includes a large number of Delegated Aboriginal Child and Family Service Agencies (DAAs) because MCFD has negotiated transfer to them of child protection and guardianship responsibilities for Aboriginal children in care.

Currently there are 30 DAAs representing 139 First Nations in BC. Of these, 19 have statutory responsibility for guardianship duties. At March 31, 2012, the PGT was coguardian with these 19 DAAs who served 33% of BC children for whom a continuing custody order had been granted. In March 2012, MCFD reported that 56% of all children in care had an Aboriginal identity. As Aboriginal children are a large proportion of the children in care in BC, they are a large proportion of the children served by the PGT as guardian of estate.

The MCFD initiative to transfer the role of guardian of person from MCFD to First Nations and Aboriginal communities continues to have a significant unintended impact on the PGT. Under this strategy, DAAs assume differing levels of responsibility from MCFD for Aboriginal children requiring child protection and guardian services.

Children Served by the PGT as Guardian of Estate

Unless otherwise stated, all statistics reported here are drawn from PGT data. Percentages have been rounded to the nearest whole number except where it is less than one half of one percent.

Throughout 2011-2012, the PGT served a total of 6,157 children and youth as guardian of estate. At March 31, 2012, there were 4,949 guardian of estate clients. Of these, boys (54%) slightly outnumbered girls (46%).

Age Distribution

Older teens made up the largest group of guardian of estate clients, as demonstrated in Table 1. This table reflects age of the child or youth for which the PGT was guardian of estate as of March 31, 2012.

Table 1: PGT guardian of estate clients by age category at Mar 31, 2012

Age category	No. of children	%
0-4 years	660	13%
5-9 years	793	16%
10-14 years	1,189	24%
15-18 years	2,307	47%
Total	**4,949**	

This age distribution does not include a small number of former guardian of estate clients for whom the PGT holds trust funds even though they have achieved majority. In these instances, the PGT is seeking to locate the former clients.

Regional Distribution

The following table (Table 2) reports regional distribution of children for whom continuing custody orders have been issued as reported by MCFD. DAAs are organized in accordance with MCFD regions.

***Table 2:** Regional distribution of children in continuing care at Mar 31, 2012*

MCFD region	% of children residing in region	Within MCFD region	
		Served by MCFD	Served by DAAs
Interior	20%	84%	16%
Coast Fraser	48%	60%	40%
Vancouver Island	21%	70%	30%
North	11%	58%	42%
Total		**67%**	**33%**

Source: MCFD
Note: Five children served from MCFD headquarters are excluded.

Delivering Guardian of Estate Services

The PGT delivers guardian of estate services through three teams in the Child and Youth Services Division (CYS). These are the Legal, Guardianship and Financial teams.

The **CYS Legal Team** includes staff lawyers, paralegals, and legal support staff who work together to ensure that PGT guardian of estate clients are represented when they need legal assistance. The team pursues a wide range of civil legal actions such as advancing claims for damages arising from motor vehicle accidents, ensuring that children and youth receive inheritances to which they may be entitled and initiating claims for damages for personal injury such as damages for loss and injury arising from physical and sexual assault.

The **CYS Guardianship Team** includes professional and administrative staff responsible for the day to day management of the financial and legal interests of minors. The team identifies financial benefits to be pursued, such as Canada Pension Plan (CPP) Children's Benefits and Registered Disability Savings Bonds, as well as legal issues that should be brought to the attention of the Legal Team. If a child or youth receives a large sum of money, a Guardianship and Trust Officer (GTO) develops an investment plan and manages the trust.

The GTO is directly responsible for working with social workers, foster parents or any other person who may be involved in supporting the child or youth. Each child or youth in continuing care has a designated GTO working for them whose responsibility is to be the main point of contact for the minor and for coguardians who are guardian of person.

The **CYS Financial Team** acts after the Guardianship Team has identified and applied for any funds or the Legal Team has settled a claim on behalf of a child or youth. The Financial Team ensures the money is placed in an individual trust account held by the PGT in the name of the child or youth. The team disburses funds on behalf of a child or youth when requested by the GTO. It oversees the verification and payment process by which youth turning 19 years old receive funds that the PGT may be holding for them.

Taking Appropriate Action

Once the circumstances of a new guardian of estate client are understood, the PGT takes all appropriate actions, such as:

- applying for funds owed to the child, such as the CPP Children's Benefit in the case of the death of a parent or disability of a parent;
- launching legal actions or lawsuits to protect the child's interests;
- negotiating settlements for damages owed to the child, often due to a motor vehicle accident in which the child was injured or the child's parents were killed; and
- placing all funds in a trust account under prudent financial management until the child turns 19 years old.

GTOs update information annually regarding each child or youth and take whatever action is needed. More frequent updates occur when the PGT is notified of a change in circumstances or when a critical incident report (CIR) is received from MCFD or a DAA (see Part 3 for more details).

The PGT provides annual status updates on each child to MCFD and DAAs as part of its annual review process.

Financial Services

The PGT pursues a wide range of financial entitlements and benefits on behalf of children and youth that it serves as guardian of estate. During 2011-2012, the PGT collected over $850,000 on their behalf, as detailed in the following table (Table 3). Funds received from court actions or settlements are not included in this table as they are not considered to be entitlements and these funds are detailed in Table 8 in the Legal Services section on page 23.

Table 3: Financial benefits, Apr 1, 2011 – Mar 31, 2012

Benefit	No. of children	Amount
CPP Children's Benefit	238	$655,753
CPP Disabled Contributor's Child's Benefit	38	$146,241
ICBC Death Benefit (one time)	3	$26,867
Crime Victims Assistance Program	5	$16,583
Worksafe BC Disability/Pension	4	$12,843
Total	**288**	**$858,288**

At March 31, 2012, 928 children and youth served as guardian of estate had trust accounts holding their funds derived from all sources. A further 287 held Registered Disability Savings Plans (RDSPs) valued at nearly $1 million in total. While the PGT charges fees and commissions associated with trust accounts, it does not charge fees for funds such as CPP Disability Benefits that would otherwise have been paid directly to a parent.

Table 4: Summary of selected assets, at Mar 31, 2012

Asset type	No. of unique clients	Total value
Registered Disability Savings Plans	287	$995,879
Trust accounts with cash balances	928	$6,622,639
Holdings in the PGT Balanced Growth Fund	19	$1,749,258

The federal government offers financial entitlement programs of potential benefit to some or all children and youth who are PGT guardian of estate clients. Examples include RDSPs and Registered Educational Savings Plans (RESPs).

While the PGT has established RDSPs on behalf of eligible clients, this activity has resulted in significant administrative pressures and unfunded related costs for the PGT. The PGT works in consultation with partners such as the RDSP Resource Centre, Planned Lifetime Advocacy Network (PLAN), MCFD, MSD and CLBC to identify strategies to lessen administrative requirements.

The PGT generally holds trust funds until the youth achieves the legal age of majority at 19 years. As guardian of person, MCFD and DAAs are primarily responsible for financially supporting children under continuing custody orders. As a result, PGT disbursements from trust funds focus more on special opportunities than on day to day expenses.

Legal Services

The PGT provides a wide range of legal services in carrying out its duties as guardian of estate. During 2011-2012, 377 legal matters were concluded.

Table 5 demonstrates the number of legal matters concluded for our clients for whom we are guardian of estate, over the past five years. Researching and pursuing legal issues may require extensive time and 29% of the total 1,875 files opened from April 1, 2007 to March 31, 2012, remained pending as of March 31, 2012.

Table 5: Number of legal matters for guardian of estate clients, Apr 1, 2007 – Mar 31, 2012

Legal files by year	2007/08	2008/09	2009/10	2010/11	2011/12	Total	%
Files concluded in year	186	240	254	282	377	**1,339**	71%
Files opened in year, still pending at Mar 31, 2012	61	73	93	145	164	**536**	29%
Total	**247**	**313**	**347**	**427**	**541**	**1,875**	
%	**13%**	**17%**	**19%**	**23%**	**29%**		

Note: Legal files are placed in the year in which they are concluded, except for files that were still pending prior to Mar 31, 2012, which are shown in the year opened.

The nature of legal activities undertaken by the PGT on behalf of its guardian of estate clients is extensive. Claims related to personal injury arising from sexual assault are the largest category, comprising 30% of claims over the past five years. See Table 6 for a full listing of the categories of potential legal matters.

Table 6: Types of legal matters for guardian of estate clients, Apr 1, 2007 – Mar 31, 2012

Legal file categories by year	2007/08	2008/09	2009/10	2010/11	2011/12	Total	%
Beneficiary designation/pension/ RRSP/insurance	11	4	6	2	–	**23**	1%
Class action	–	–	3	1	129	**133**	7%
Contracts - entertainment	1	–	–	1	1	**3**	<1%
Contracts - other	–	–	–	–	1	**1**	<1%
Creditor/debtor	–	1	2	7	4	**14**	1%
Criminal	–	–	–	–	1	**1**	<1%
Family	1	–	–	–	–	**1**	<1%
Family Compensation Act	17	20	30	24	22	**113**	6%
Guardianship minors	24	11	4	13	21	**73**	4%
Miscellaneous	6	8	22	24	15	**75**	4%
Personal injury - dog bite	2	–	4	4	5	**15**	1%
Personal injury - medical malpractice	–	1	1	3	1	**6**	<1%
Personal injury - motor vehicle accident	29	60	68	73	73	**303**	16%
Personal injury - other	69	89	64	99	86	**407**	22%
Personal injury - sexual assault	70	98	117	136	136	**557**	30%
Personal property matters	–	1	–	–	–	**1**	<1%
Real property	3	–	–	1	–	**4**	<1%
Review of accounts	–	–	2	–	2	**4**	<1%
Trust - breach	–	–	–	1	1	**2**	<1%
Trust - monitor/investigate	1	–	2	2	5	**10**	1%
Trust - other	1	1	2	16	3	**23**	1%
Worksafe claims	–	1	1	3	–	**5**	<1%
Wills & estates - other	12	18	12	16	35	**93**	5%
Wills & estates - *Wills Variation Act*	–	–	7	1	–	**8**	<1%
Total	**247**	**313**	**347**	**427**	**541**	**1,875**	

There are a broad range of potential outcomes to legal actions. See Table 7 for outcomes over the past five years.

Table 7: Outcomes of guardian of estate legal matters, Apr 1, 2007 – Mar 31, 2012

Legal files by outcome	2007/08	2008/09	2009/10	2010/11	2011/12	Total	%
Age of majority - legal information letter provided	87	123	140	147	121	**618**	51%
Child deceased before legal action concluded	–	2	1	–	2	**5**	<1%
Child defended in civil action	1	1	7	1	–	**10**	1%
Client assumed conduct of legal action at age 19	4	10	11	8	13	**46**	4%
Court award made	3	8	4	3	5	**23**	2%
Information transferred to adoptive parents	1	13	13	5	8	**40**	3%
Information transferred to new guardians (s. 54.1)	–	1	3	2	1	**7**	1%
Other (e.g. matter stayed, discontinued, dismissed, etc.)	37	26	15	33	28	**139**	11%
PGT acting as Litigation Guardian/Power of Attorney post 19 years old	3	2	6	2	3	**16**	1%
PGT not pursuing claim - no further action	28	27	30	60	49	**194**	16%
Settlement reached	22	27	22	21	19	**111**	9%
Transfer to PGT Services to Adults, child not capable	–	–	–	–	1	**1**	<1%
Total	**186**	**240**	**252**	**282**	**250**	**1,210**	

Note: Outcomes associated with class actions are not included in the table above.

In some instances, the PGT pursues an action against other defendant(s) on behalf of the child or youth. In other instances the PGT represents the child or youth as a defendant in a civil action.

Over the past five years, the PGT has recovered through legal actions close to $7 million on behalf of its guardian of estate clients by way of judgments, settlements or other financial outcomes. See Table 8 for details.

Table 8: Amounts collected through guardian of estate legal actions, Apr 1, 2007 – Mar 31, 2012

Legal files with court award or settlement amounts	2007/08	2008/09	2009/10	2010/11	2011/12	Total	%
$0-5k	11	14	11	7	6	**49**	35%
Total value	$23,091	$42,688	$25,886	$15,445	$13,000	**$120,110**	2%
$5-10k	5	8	2	3	2	**20**	14%
Total value	$34,443	$61,206	$17,939	$17,100	$11,000	**$141,688**	2%
$10-20k	3	1	7	7	1	**19**	13%
Total value	$39,353	$15,948	$90,629	$104,822	$10,153	**$260,905**	4%
$20-50k	4	6	3	4	5	**22**	16%
Total value	$168,391	$183,486	$70,145	$145,499	$167,600	**$735,121**	11%
$50-100k	2	7	3	1	3	**16**	11%
Total value	$119,744	$530,969	$248,972	$83,500	$172,500	**$1,155,685**	17%
$100k+	–	3	4	4	4	**15**	11%
Total value	–	$701,044	$1,920,418	$1,048,042	$598,000	**$4,267,504**	64%
Total No.	**25**	**39**	**30**	**26**	**21**	**141**	
Total value	**$385,022**	**$1,535,341**	**$2,373,991**	**$1,414,408**	**$972,253**	**$6,681,014**	

Note: Outcomes associated with class actions are not included in the table above.

Termination of PGT Guardianship

PGT guardian of estate services continue until youth reach the age of 19 and are legally recognized as adults or until their continuing custody orders are terminated.

When young people in BC turn 19, they become responsible for their own affairs, including the financial and legal matters that were previously managed by the PGT. In preparation for these new responsibilities, the PGT provides youth approaching their 19th birthdays with a summary of their financial affairs. This summary is provided to each youth's social worker and includes a report on the youth's assets and investments. It may also include a letter that provides legal information concerning legal and financial affairs, including information about any legal actions that are underway and potential claims that the youth may wish to pursue as an adult.

Where PGT staff believe that a youth approaching 19 years may require ongoing support because of mental incapacity, the individual may be referred to the PGT Services to Adults division that works with the youth and community partners to determine what level of support the young person may require as an adult. Nineteen referrals were made between April 1,

2011 and March 31, 2012 and the PGT was appointed as committee of estate under the *Patients Property Act* for 10 former guardian of estate clients when they reach the age of majority.

The PGT authority as guardian of estate also ends when a continuing custody order is cancelled. This happens when children who are the subject of the order are adopted, are returned to their parents or guardianship is transferred to a new guardian. PGT authority ends most frequently because the minors become adults.

The *Child, Family and Community Service Act* allows MCFD and DAAs to apply to the Provincial Court to terminate a continuing custody order and transfer physical custody and guardianship, often to a relative of the child. Under the Act, PGT consent for the application to transfer guardianship is required before MCFD or the DAA can apply to the Provincial Court.

Between April 1, 2011 and March 31, 2012 the PGT consented to 22 applications to transfer guardianship of 8 girls and 14 boys. Of the children involved in the transfers, 9 children had an Aboriginal identity.

When the PGT is notified that a transfer of guardianship is being considered, staff work with the child's social worker to ensure that the PGT is able to advise prospective guardians of their duties as guardian of estate. The prospective guardians are required to acknowledge to the PGT that they understand and accept the related duties and responsibilities.

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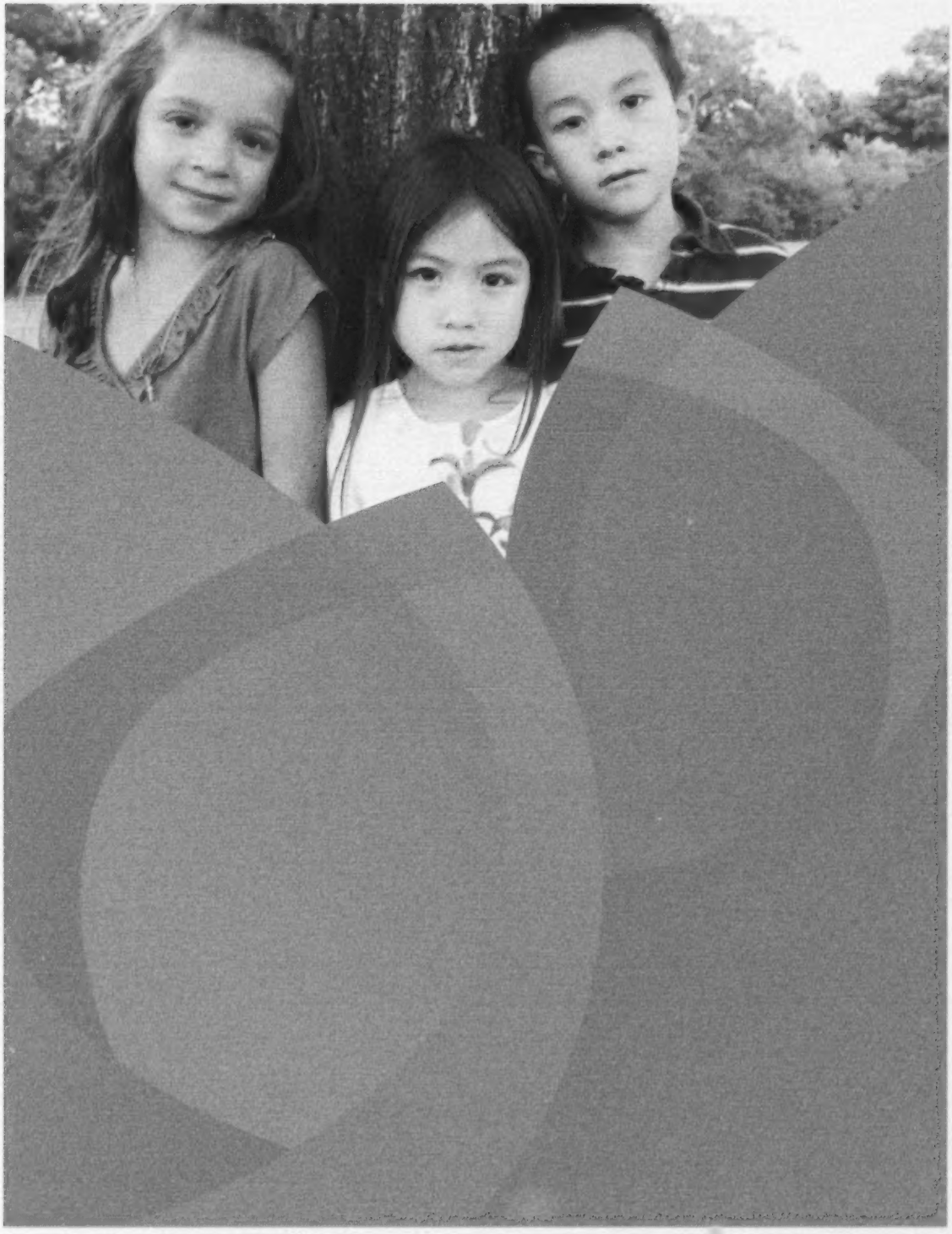


Part 3. Critical Incident Reports

As guardian of estate, the PGT protects the legal and financial interests of the children and youth for whom it is coguardian with MCFD and DAAs. This includes reviewing reports of alleged incidents in which the child may have been harmed or been at risk of harm.

The majority of incidents regarding children and youth are reported to the PGT by MCFD or DAAs through reports called "initial reportable circumstances". The PGT refers to these reports as "critical incident reports" or CIRs.

Critical incidents can range widely. Examples include a child leaving a foster home without permission, a motor vehicle accident involving the child, or abuse or harm of the child. Any of these incidents may lead to the PGT making a legal claim on behalf of the child. Taking action in response to these reported incidents is one of the most important duties performed by the PGT on behalf of its guardian of estate clients. However, the PGT can only act when it learns that something has happened. Accordingly, the quality of reporting to the PGT is a key determinant of service quality.

The PGT has received initial reportable circumstances reports from MCFD on an automated basis since 2007. This guardianship report summarizes data from 2007-2008 through the 2011-2012 fiscal years.

In the course of describing a current incident, many CIRS reference previously unreported incidents. The PGT did not publicly report on these past incidents in previous guardianship reports although they have been fully incorporated as of the 2011-2012 data. While this expanded definition provides for more accurate reporting, the change should be considered when comparing current data with that of previous years. As of Apr. 1, 2011, the PGT also began tracking each incident of harm or injury separately.

PGT Review of and Response to Critical Incident Reports

The PGT process for review of and response to CIRs is illustrated in Figure 1. When the PGT receives a CIR, the first step is to ensure that the Guardianship and Trust Officer (GTO) has the information needed to review the report. This review occurs within 60 calendar days of receiving the initial report from MCFD/DAA's and timeliness of these initial reviews is tracked by a PGT performance measure. During 2011-2012, the PGT met the standard by reviewing 99% of CIRs within 60 days.

For some reports, the GTO may determine that the circumstances require a review by legal counsel to determine if legal action should be pursued. There is no legal consultation for reports in which there is clearly no legal matter to pursue. For example, a report of a youth who went missing overnight without any injury or harm would not generally result in a legal consultation.

Unless it is obvious that it is not required, all incident reports are reviewed with legal counsel to determine if a referral to legal services is warranted.

There are three possible outcomes where there is a legal consultation regarding a CIR:

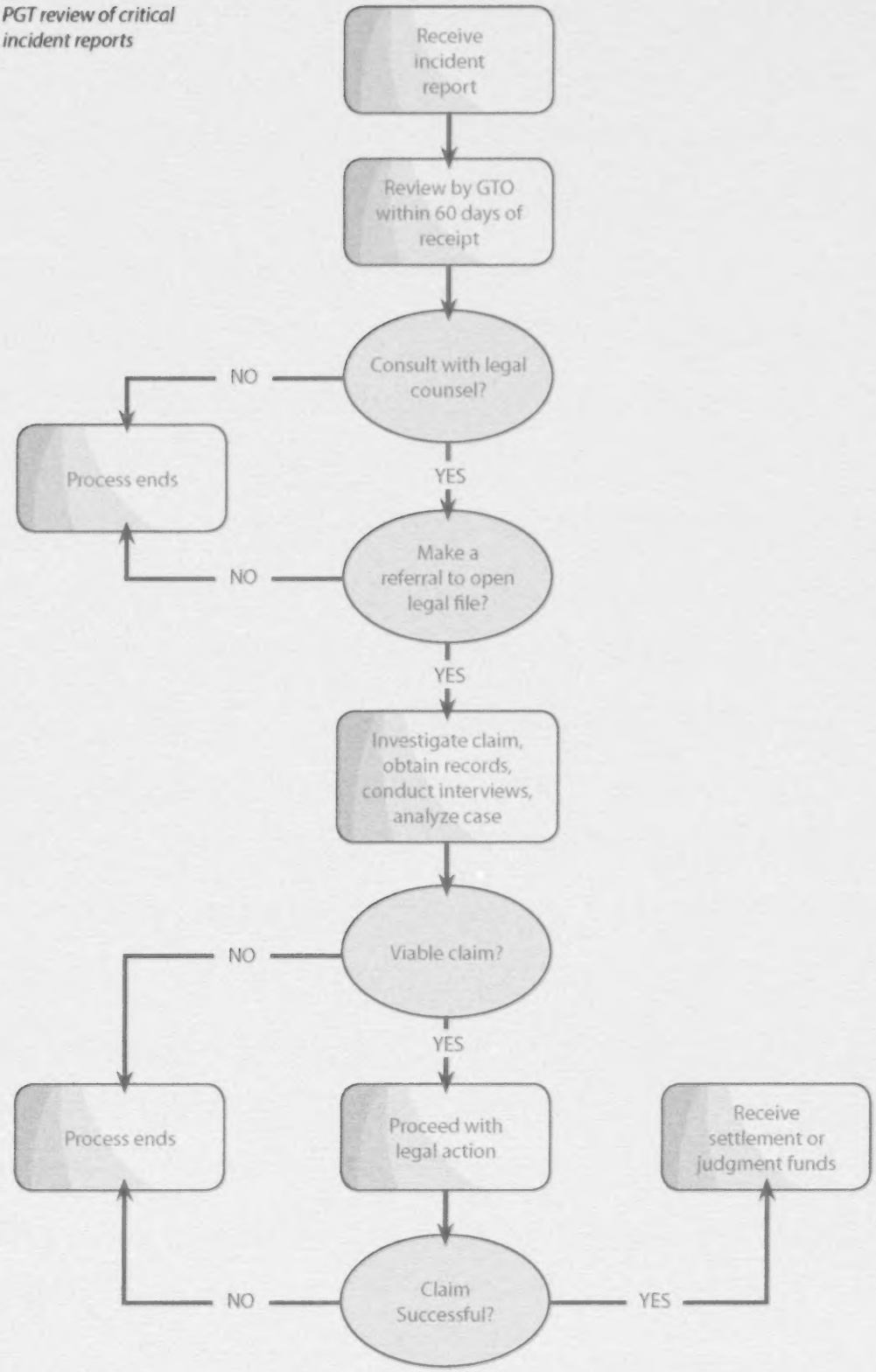
- referral of the incident to PGT legal services for further action;
- no legally actionable matter is identified; or
- a legal information letter is to be provided to the youth on reaching the age of majority.

A referral to legal services leads to further investigation to determine if there is a viable claim. The PGT decision to proceed with further action is based on legal advice that the facts underlying a critical incident report give rise to a civil claim for damages on behalf of the child who is the subject of the report.

In some instances, the PGT is unable to act on potential claims while the child or youth is a guardian of estate client. These could include potential lawsuits in which the risks in pursuing the claim outweighed the benefit at the time or because the alleged harmer did not have assets at the time to pay a possible judgment. Where this occurs, the PGT may provide a legal information letter to the youth as he or she is becoming an adult. This letter advises the young person of outstanding legal issues that the individual may wish to pursue as an adult and the date on which the relevant limitation period will expire.

Pursuing legal action is usually a very lengthy process and claims may not be resolved for years. As the focus of this report is on CIRs received by the PGT between April 1, 2011 and March 31, 2012, many outcomes for these legal actions are not yet available and will be reported in the future.

***Figure 1.** PGT review of critical incident reports*



Statistical Summary of Critical Incident Reports Received by the PGT

The remainder of this section of the report provides a statistical summary of CIRs received by the PGT between April 1, 2011 and March 31, 2012. Data provided for the previous four year period for most categories is presented in appendices at the end of this report.

CIRs cover a wide range of incidents described by MCFD and DAAs as initial reportable circumstances. The PGT reviews the MCFD/DAA reports upon receipt and classifies the reported incident types according to categories it has adapted from the World Health Organization International Classification of Diseases. PGT has adapted the classification of types of alleged harmers from the International Classification of External Causes of Injuries. For more information and definitions of these categories, see Appendix 2.

In some cases, children and youth in care have been subjected to serious harm and/or injury. While the presentation of the data in this report may appear clinical, the impact can be profound.

This summary describes the total number of reports, the types of incidents reported, and the actions taken by the PGT in response to these reports. All data presented in this section and in the appendices is based on the information reported to the PGT by MCFD or DAAs, and occasionally by other sources.

Readers should exercise caution in further interpretation of the critical incident data in this report. It is drawn from critical incident reports as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these critical incident reports should be drawn from their inclusion in this report.

Number of Children Involved in Critical Incident Reports

For the period April 1, 2011 through March 31, 2012, the PGT received 738 CIRs involving 512 children (see Table 9). These reports involved 8.3% of the 6,157 children and youth receiving guardian of estate services during this period. MCFD and DAAs were the source of almost all the reports. Multiple CIRs were received for 26% of the children about whom a report was made including one child for whom 13 reports were made.

Table 9: Critical incident reports for unique individuals, Apr 1, 2011 – Mar 31, 2012

No. of reports	No. of individuals	% of individuals	No. of reports	% of reports
1 report	378	74%	378	51%
2 reports	85	17%	170	23%
3 reports	24	5%	72	10%
4 reports	17	3%	68	9%
5 reports	5	1%	25	3%
6 reports	2	<1%	12	2%
13 reports	1	<1%	13	2%
Total	**512**		**738**	

For the previous four year period, April 1, 2007 to March 31, 2011, the PGT received 2,584 CIRs involving 1,488 children. While the majority of children involved were the subject of a single CIR (993 or 67%), others were the subject of multiple CIRs, including six children who were the subject of 10 or more reports.

Critical Incident Report Types

Of the CIRs received between April 1, 2011 and March 31, 2012, 266 (36%) involved incidents that did not result in injury or harm to the children, for example, leaving a foster home without permission. Where there was no injury and no grounds for legal action, the reports did not result in further action by the PGT.

In the same 2011-2012 period, there were 472 reports of incidents in which a child or youth experienced some level of harm. The following table (Table 10) describes these 472 CIRs.

Table 10: Critical incident reports by incident type where a child experienced harm, Apr 1, 2011 – Mar 31, 2012

Incident type	No. of reports	%
Cutting/piercing	7	1%
Death	7	1%
Dog bite	3	1%
Fall	18	4%
Fire, flames, hot substances	2	<1%
Medical Condition	10	2%
Motor vehicle accident - child cyclist	4	1%
Motor vehicle accident - child driver	9	2%
Motor vehicle accident - child passenger	47	10%
Motor vehicle accident - child pedestrian	13	3%
Non motor vehicle accident - cycle accident	1	<1%
Other type of injury or harm to child	46	10%
Physical and sexual assault	11	2%
Physical assault	140	30%
Self inflicted injury	8	2%
Sexual assault	107	23%
Submersion	1	<1%
Suicide attempt	38	8%
Total	**472**	

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

Note 2: Death includes accidental, homicide, natural and suicide deaths.

Note 3: See Appendix Table A: Critical incident reports by incident type where the child experienced harm, Apr 1, 2007 – Mar 31, 2011, for more information.

Of the 472 incidents reported in 2011-2012 in which a child experienced harm:

- Some form of assault accounted for 258 (55%) incidents.
- Motor vehicle accidents accounted for 73 (15%) incidents.
- Suicide attempts accounted for 38 (8%) incidents while other self inflicted injuries accounted for 8 (2%) incidents.

The PGT assesses CIRs in which a child has been harmed to determine if legal action might result in compensation for the child.

The PGT received a total of 738 CIRs during 2011-2012. Of these 738 CIRs:

- No harm occurred in 266 (36%) of the incidents.
- Harm occurred in 472 (64%) of the incidents.
- Of the incidents in which harm occurred, 136 (29 % of the 472) involved incidents in which no person(s) were alleged to have harmed the child or youth, for example cycling accidents that involved no other person.
- Of the incidents in which harm occurred, 336 (71% of the 472) involved a "harmer", that is a person who directly harmed a child, whether intentionally or by accident.

The following table (Table 11) reports on the 336 incidents involving a harmer. Harmer does not refer to agencies that may have a legal responsibility to care for the child. See Appendix 2 for more information about categories of harmers. For information regarding previous years, see Appendix Table B: Critical incident reports by person alleged to have harmed the child, Apr 1, 2007 – Mar 31, 2011.

*Table 11: Critical incident reports by person alleged to have harmed the child, Apr 1, 2011 – Mar 31, 2012**

Alleged harmer	No. of reports
Another child(ren) in care	9
Boyfriend/girlfriend/spouse	16
Foster parent(s)	58
Other friend(s)/acquaintance(s)	51
Other relationship**	82
Other relative(s)	12
Parent(s)	36
Person(s) in official or legal authority	4
Relationship not known	54
Stranger(s)	5
Unrelated caregiver(s)	9
Total	**336**

*See Appendix Table B: Critical incident reports by person alleged to have harmed the child, Apr 1, 2007 – Mar 31, 2011 for more information.

**"Other relationship" is used where multiple harmers may be involved.

Of the 336 incidents reported in 2011-2012 in which there was a person who directly harmed a child:

- Other friends or acquaintances and boyfriends, girlfriends or spouses, were the harmer in 67 (20%) incidents.
- Foster parents and unrelated caregivers were the harmer in 67 (20%) incidents.
- The relationship was not known in 54 (16%) incidents.
- Parents and other relatives were the harmer in 48 (14%) incidents.
- Strangers were the harmer in 5 (1.5%) incidents.

The nature of the harmer varied with the type of incident. Foster parents and unrelated caregivers were the harmer in 25% of the 2011-2012 incidents involving physical and/or sexual assaults. Other friends and acquaintances were the harmers in 19% of these. For additional data on harmers by incident type, see Appendix Table C: Alleged harmer by frequency of incident types, Apr 1, 2007 – Mar 31, 2011.

Children and Youth Involved in Critical Incident Reports

Age

The incidence of CIRs according to age group differs from the general age distribution for all children served as guardian of estate during this period (see Table 1). As an example, while

children aged 0 to 9 years comprised 29% of all guardianship clients, they were the subject of only 14% of the CIRs received during 2011-2012. Table 12 below provides details.

Table 12: Critical incident reports by age category for unique individuals, Apr 1, 2011 – Mar 31, 2012

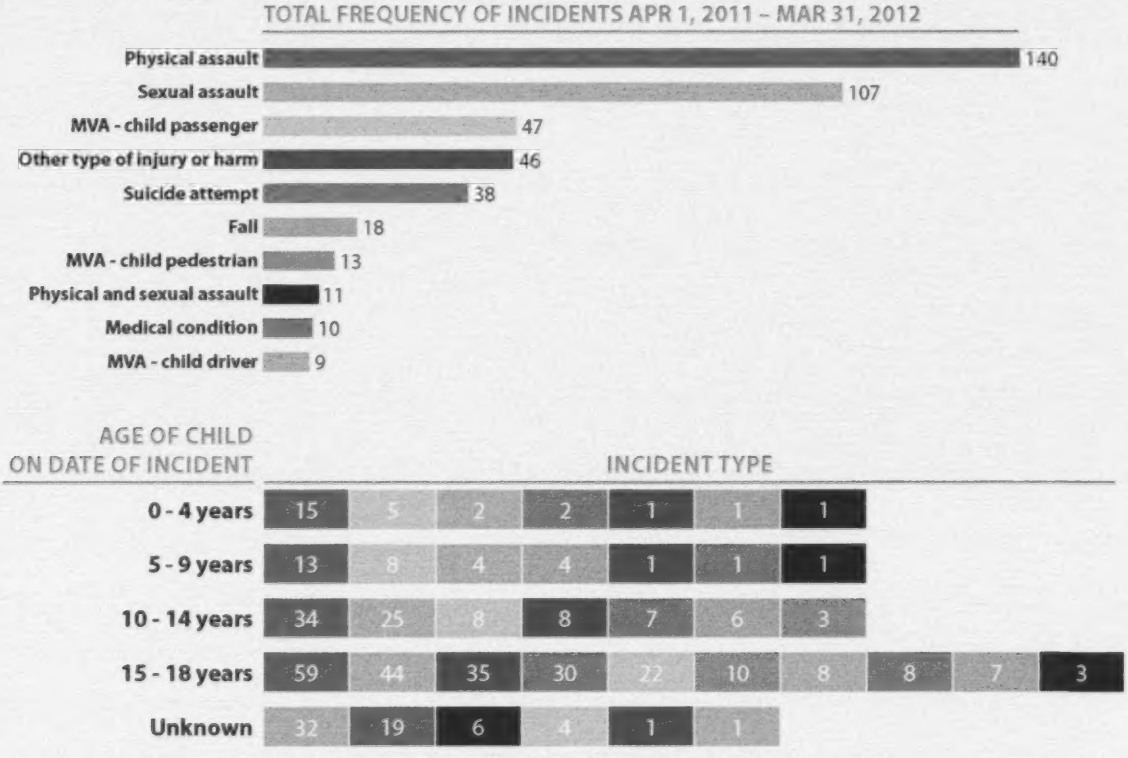
Age*	No. of reports	%
0 - 4 years	31	6%
5 - 9 years	41	8%
10 - 14 years	106	21%
15 - 18 years	304	59%
Age unknown at time of incident	30	6%
Total	**512**	

*Age at time of incident.

Note: "unknown" is used when the exact day of the incident is unknown or when incidents occurred over a period of time.

Physical assault was the primary reported incident among all age categories. Sexual assault was the second most reported incident for age categories over 9 years. Further details are provided in Table 13 below.

Table 13: Frequency of incident types by age category on date of incident, Apr 1, 2011 – Mar 31, 2012


TOTAL FREQUENCY OF INCIDENTS APR 1, 2011 – MAR 31, 2012
Physical assault 140
Sexual assault 107
MVA - child passenger 47
Other type of injury or harm 46
Suicide attempt 38
Fall 18
MVA - child pedestrian 13
Physical and sexual assault 11
Medical condition 10
MVA - child driver 9
AGE OF CHILD ON DATE OF INCIDENT
INCIDENT TYPE
0 - 4 years 15 5 2 2 1 1 1
5 - 9 years 13 8 4 4 1 1 1
10 - 14 years 34 25 8 8 7 6 3
15 - 18 years 59 44 35 30 22 10 8 8 7 3
Unknown 32 19 6 4 1 1

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in the table.

Note 2: See Appendix Table I: Frequency of incident types by age category on date of incident, Apr 1, 2007 – Mar 31, 2011.

Note 3: "unknown" is used when the exact day of the incident is unknown or when incidents occurred over a period of time.

The pattern of physical assault as the leading type of incident reports for all age categories and sexual assault as the second leading type of incident reports for most age categories was consistent over the four year period of April 1, 2007 to March 31, 2011. [For details, see Appendix Table I: Frequency of incident types by age category on date of incident Apr 1, 2007 – Mar 31, 2011.]

The type of harmer also varied according to the age of the child at the date of the incident. In 2011-2012, foster parents and unrelated caregivers were the harmer in 11 of 31 (35%) incidents involving children aged 0 - 4 years and 11 of 45 (24%) for those aged 5 - 9 years, dropping to 15 of 450 (3%) for those aged 15 -18 years. Other friends and/or acquaintances were the harmer in 32 of 450 (7%) of incidents for children aged 15 - 18. Strangers were the harmer in 4 of 450 (1%) incidents involving children aged 15 - 18 years.

While data is still too limited to confirm trends, a review of the previous four years of critical incident reports indicates that the category of harmer appears to vary according to the age of the child or youth. For details on previous years, see Appendix Table D: Frequency of categories of alleged harmer by age category of child, Apr 1, 2007 – Mar 31, 2011.

Gender

Children involved in the critical incident reports received in 2011-2012 were generally evenly split by gender with 51% female and 49% male. However, there were differences by gender in terms of the type of incident reports. In 2011-2012, girls were the victims of 82% of all sexual assaults while boys were the victims of 58% of all physical assaults. For previous data, see Appendix Table E: Critical incident types by gender of child, Apr 1, 2007 – Mar 31, 2011.

In 2011-2012, there were also differences in gender with respect to incident reports involving a harmer. Girls were the victims in 60% of incidents in which parents or other relatives were the harmer and 100% of the events in which boyfriends, girlfriends or spouses were the harmer. For details on previous years, see Appendix Table F: Alleged harmer by gender of child, Apr 1, 2007 – Mar 31, 2011.

Aboriginal Identity

Of the 512 children who were the subject of a CIR in 2011-2012, 316 (62%) were identified as Aboriginal. The reported incidents varied somewhat according to Aboriginal identity. Aboriginal children were the victims of 58% of the incidents involving physical and/or sexual assault and were involved in 53% of the suicide attempts. The majority of the children involving incidents in which there was no injury or harm were also identified as Aboriginal (67%). For earlier data, see Appendix Table G: Frequency of incident type by Aboriginal identity of child, Apr 1, 2007 – Mar 31, 2011.

Regional Distribution

The largest number of CIRs came from the Coast Fraser Region (52%), closely reflecting its standing as the MCFD region with the most children in continuing care.

Table 14: MCFD region reporting critical incidents, Apr 1, 2011 – Mar 31, 2012

MCFD region	No. of reports	%
Coast Fraser	381	52%
Interior	157	21%
North	109	15%
Vancouver Island	91	12%
Total	**738**	

Outcomes from PGT Review of Critical Incident Reports

The PGT reviewed 738 CIRs between April 1, 2011 and March 31, 2012.

Of these, there were 709 (96%) CIRs for which there was an outcome during the year from an initial staff review. Table 15 shows the outcome of GTO reviews. PGT action on CIRs ends if the outcome at the GTO review stage is that there will be no legal consultation.

Table 15: Outcome of GTO review of critical incident reports for reviews occurring Apr 1, 2011 – Mar 31, 2012

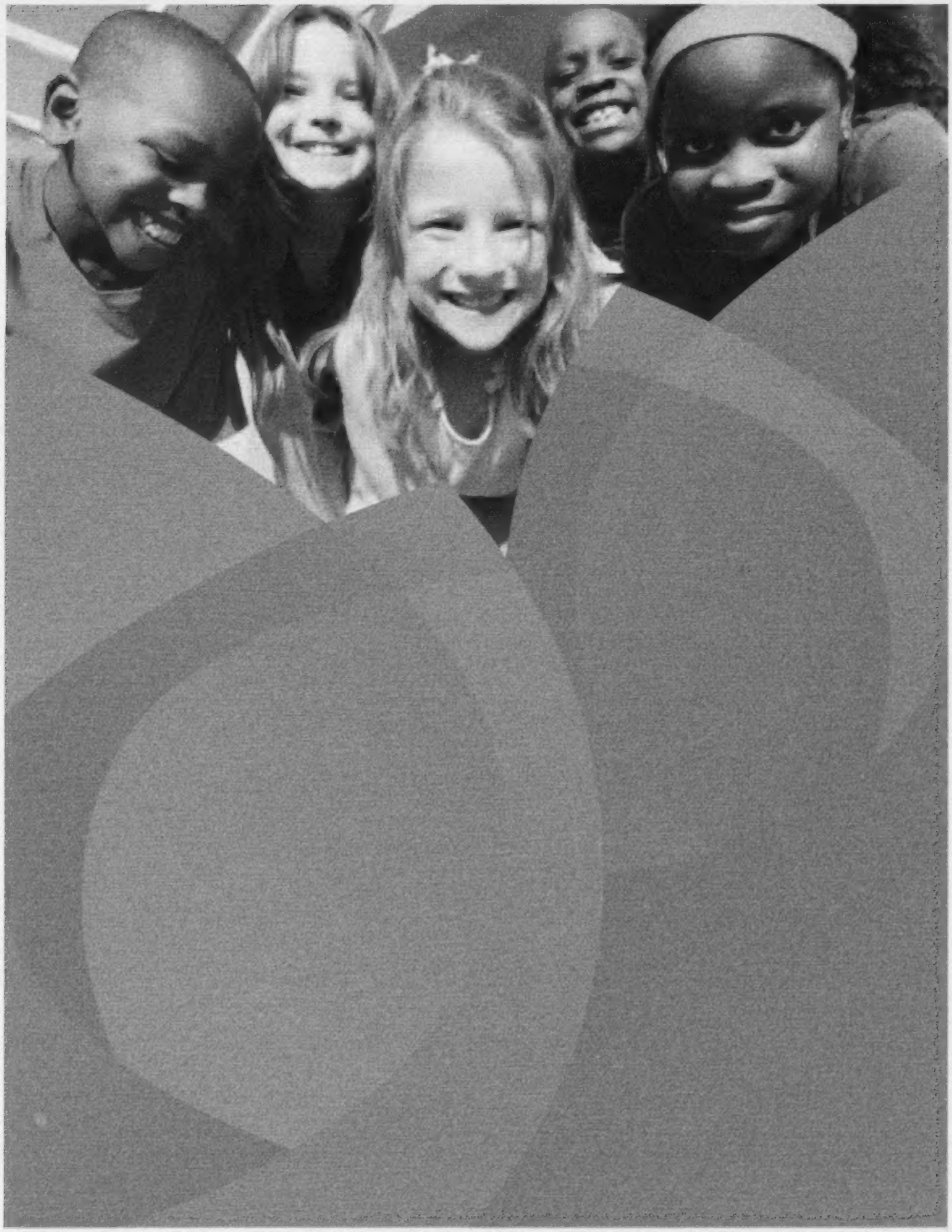
Outcome of initial review	No. of reports	%
No legal consultation - no actionable matter	380	51%
Legal consultation - referral to legal services	97	13%
Legal consultation - no actionable matter	218	30%
Legal consultation - legal information letter	14	2%
Pending	29	4%
Total	**738**	

Note 1: See Appendix Table H: Outcome of GTO review by incident type, Apr 1, 2007 – Mar 31, 2011.

Note 2: As of Sept. 2012 of the 738 total CIRs reviewed in 2011/12, 29 had no GTO outcomes and will be reported on in future.

During this year, GTOs established that 380 (51%) reports of incidents were not actionable and did not request legal consultation because there was clearly no legal matter to pursue, such as a report of a youth who went missing overnight that did not involve injury or harm.

Challenges and Opportunities 4



Part 4. Challenges and Opportunities

Delivering guardianship services to children and youth in continuing care provides for a range of opportunities and challenges in protecting the legal and financial interests of those children and youth. These challenges and opportunities include the need for timely delivery of information from MCFD to the PGT, the need for enhanced transitional support for youth leaving care, the need for new tools to promote financial literacy and the need to modernize the legal definitions of the roles and duties of public guardians through law reforms.

Information Sharing

The PGT is dependent on a range of reporting from MCFD and DAAs to be able to carry out its duties, beginning with notice that a continuing custody order has been issued. Other essential reporting includes notification of any incident involving a child in care for whom the PGT is guardian of estate. The PGT is legally authorized to receive this information and reporting is governed by a protocol agreement between the PGT, MCFD and DAAs and is elaborated upon in a number of MCFD Practice Standards and other legal instruments.

While notification about new children coming into continuing care occurs on a timely basis, the PGT continues to face significant barriers in accessing other essential information regarding its guardianship clients. Despite a commitment by MCFD to provide information to the PGT in accordance with PGT's legal authority, significant delays are occurring in MCFD responding to PGT requests for further records. This is a long standing issue and continues to inhibit the PGT's ability to assess and address legal entitlements of the children and youth in a timely fashion.

If not addressed soon, MCFD's failure to provide requested information to the PGT in a timely manner will inhibit the PGT from fulfilling its mandate and may prevent children and youth from having access to legal services and potentially, to financial entitlements. The PGT will continue to press for improvement in this critical area.

Enhanced Transitional Support

There is growing awareness among service providers to children and youth in continuing care of the critical need to provide improved post majority support to youth transitioning to adulthood. The PGT supports this direction and has been modifying its service delivery model to provide more support and information to youth leaving care related to the PGT role and expertise.

The PGT is participating in cross ministry working groups focused on improving transitional supports for youth. The PGT also continues to develop its relationships with MCFD and DAAs through its participation at various partnership meetings and other working groups, with the objective of improving the ability of youth leaving care to manage independently as young adults.

The PGT is developing new tools and training programs to provide transition and financial literacy services to its child and youth clients. This includes reorganizing the Child and Youth Services division to provide more focused services to youth leaving care. Some PGT staff have been trained to provide financial literacy training and an internal transition planning checklist has been revised to ensure earlier follow up with social workers and children and youth, particularly when transitioning youth have trust funds and/or RDSPs.

The PGT has set a goal of establishing RDSPs for its qualified child and youth clients to improve financial outcomes for these children. The PGT applies for RDSPs for eligible guardianship clients and sits on a provincial collaborative of government and non government partner agencies to enhance the uptake in RDSPs for children and adults in BC. The PGT is also working with government and community partners to increase its rate of success in transferring RDSPs to youth or their legal representatives as youth leave care. Establishing and managing RDSPs is complex and administratively time consuming work and the PGT is applying LEAN practices to minimize the administrative burden associated with this new line of business.

Building Financial Literacy for Children and Youth

Financial literacy is a requirement for daily functioning in our society and providing financial literacy information is one of the services provided by the PGT to its child and youth clients.

In its guardianship role, the PGT pursues financial entitlements and benefits for eligible clients. The PGT is also advancing legal claims where appropriate on behalf of its child and youth clients. Many of these claims result in settlements or judgments. As a result, increasing numbers of child guardianship clients have assets as they become adults, increasing their need for financial management skills.

The PGT is working with service partners on a number of activities to increase financial literacy of its child and youth guardianship clients including working with First Nations, the federal government and Aboriginal and private sector organizations in developing the *First Nations Financial Fitness Handbook* and accompanying Facilitators Guide. These tools are already being widely used in community and individual financial literacy training workshops across the province by the PGT and service partners.

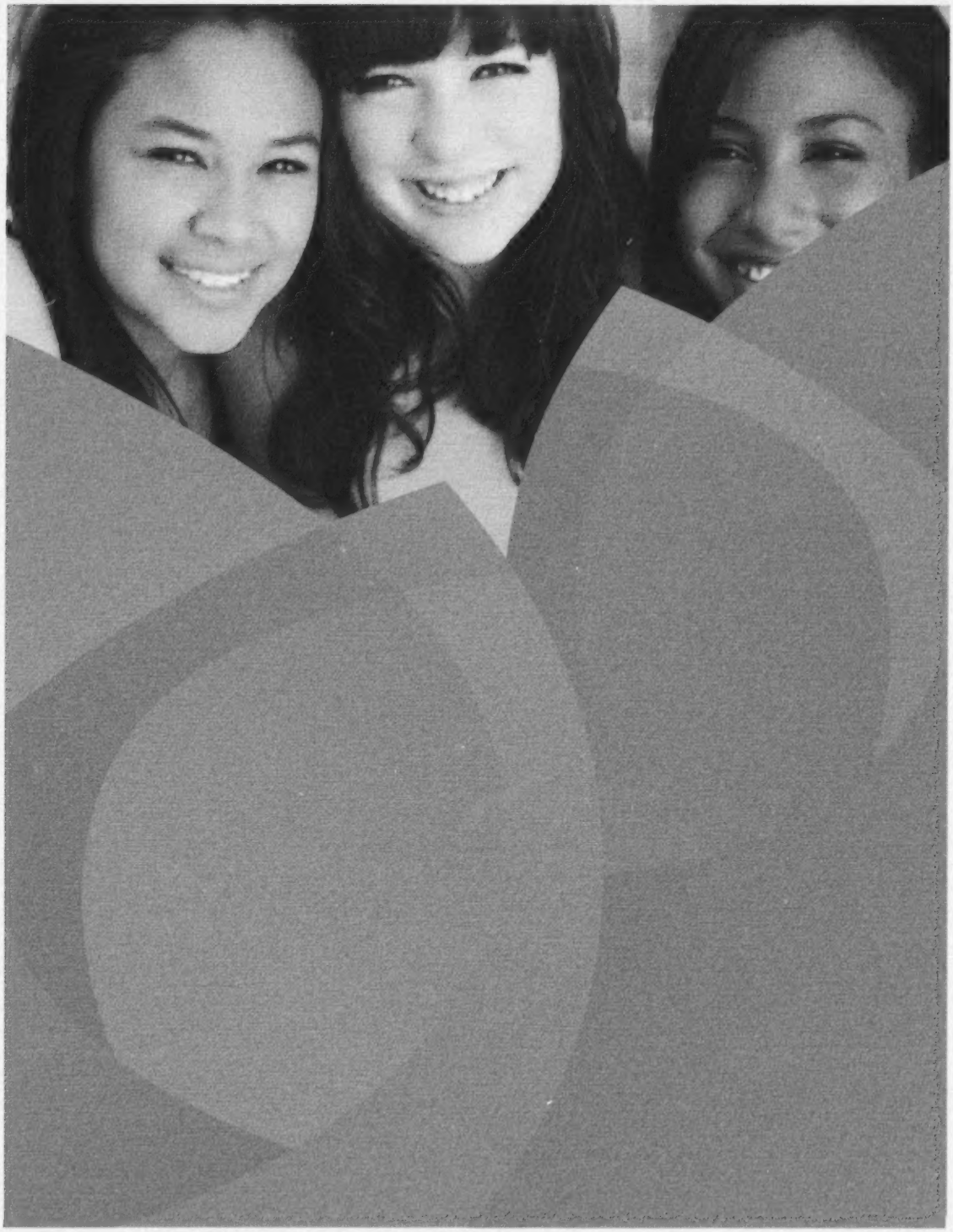
Law Reform

The PGT continues to call on government for law reform to modernize and clearly define the powers and duties of public guardianship of children and youth. The new *Family Law Act* will clarify parental roles and duties and provide meaningful guidance to private guardians of minor children. The new statutory provisions, however will not apply to MCFD or to the PGT in their respective capacities as public guardians of person and of estate of certain children and youth in British Columbia. The existing statutory definition of public guardianship of estate is based on the law of England in 1660 and remains unhelpful in providing direction about the nature and scope of duties of public guardianship of estate.

While the PGT's concern is primarily with the definition of public guardianship of estate, a modern statutory definition of the powers and duties of public guardianship of person would add clarity to the law. Updating the statutory definition of public guardianship will not only provide guidance to the public guardians of children and youth in carrying out their duties, but will also provide clarity to British Columbians about the role of public guardianship.

The PGT continues to be concerned that guardian of estate services are not available in practice to children and youth in long term care who are served outside of a continuing custody order. This number increases each year as alternative arrangements are applied to provide greater flexibility in meeting guardian of the person needs. The PGT considers that a minor child always requires a guardian of estate, at the very least, to monitor the child's circumstances to identify issues and take appropriate action to protect the child's legal and financial interests. If there is no guardian of estate to monitor a child's life events, critical issues which should be acted upon will not be discovered.

Appendices and Data Tables



APPENDIX I. Glossary of Acronyms and Terms

A. Acronyms

CIR	Critical Incident Report
CLBC	Community Living BC
CPP	Canada Pension Plan
CVAP	Crime Victim Assistance Program
CYS	PGT Child and Youth Services
DAA	Delegated Aboriginal Child and Family Service Agency
GTO	Guardianship and Trust Officer
MCFD	Ministry of Children and Family Development
MSD	Ministry of Social Development
PGT	Public Guardian and Trustee of British Columbia
RCY	Representative for Children and Youth

B. Terms

Age of Majority – Age of majority, in BC when a youth is considered an adult is 19.

Alternative Care – Methods of providing provincial services other than by taking children and youth into continuing care, e.g., Youth agreements, Voluntary Care Agreement, Extended Family Agreements.

Continuing Care – In this report, describes the status of children for whom a continuing custody order has been granted.

Continuing Custody Order – A court order granted by a Provincial Court Judge confirms that a child or youth is permanently removed from their family home and the guardianship of their parent(s) or other adult(s). When this happens, MCFD or DAAs become the child's Guardian of Person and the PGT becomes their Guardian of Estate.

CPP Children's Benefit – A monthly payment by CPP to children of a parent who has died and was a contributor to the CPP.

CPP Disabled Contributor's Child's Benefit – A monthly payment by CPP to children of a parent who is unable to work and is receiving a disability pension.

Critical Incident Report - A report, usually from MCFD or a DAA, that advises of a situation where a child may have been harmed or at risk of harm. Also known as "initial reportable circumstances report".

Extended Family Agreement – An agreement between MCFD or a DAA and a family member or other person that allows individuals to care for a child or youth who is not able to live with their natural parents and the parent has given the child into the care of the other person. MCFD may also provide financial support to that person.

Legal Information Letter – A letter sent by the PGT to a youth about to turn 19 to advise them of any outstanding legal issues that the youth may wish to pursue as an adult and the date on which the applicable limitation period expires.

Guardian of Estate – Role under which an individual or the PGT has a fiduciary duty to protect the legal and financial interests of a minor child or youth.

Trustee – A person or organization with a duty to hold property (money, land, investments) on behalf of another person and to manage it for that person's benefit.

Youth Agreement – A type of agreement under which MCFD agrees to provide financial support directly to a child or youth who cannot live with their family and there is no other family member or person able to care for the youth.

APPENDIX 2. PGT Classification of Critical Incident Reports

A. Incident Types

The PGT reviews critical incident reports from MCFD and DAAs upon receipt and categorizes the reported incident types according to classifications adapted from the extensive World Health Organization International Classification of Diseases. For more information see the complete classification system at www.who.int/classification/icd/en

- Only the categories for which there were reported incidents during this period appear in this report.

Cutting/piercing – Injury caused by cutting or piercing instrument or object. Excludes assault with a sharp object and self inflicted injury with a sharp object.

Death – The reported incident was that the child's death was accidental, homicide, natural death, or suicide.

Dog bite – Injuries resulting from a dog bite.

Drowning/submersion – Accidental drowning or submersion involving watercraft, fall or activity in water resulting in resuscitation/medical attention excluding intent to self harm.

Fall – Falls due to accidental pushing or collision with other person, or diving or jumping into water.

Fire/flames/hot substances – Injuries caused by fire and flames; hot appliances, objects or liquids; steam; acid burns.

Medical condition – Illnesses or complications arising from surgery, medical care or medical treatment including hospitalizations due to medical illness.

Motor vehicle accident – child cyclist – Child was riding on a pedal cycle and involved in a collision or non collision injury associated with a motor vehicle.

Motor vehicle accident – child driver – Motor vehicle accident where the child was the operator of the motor vehicle excluding motorized bicycle.

Motor vehicle accident – child passenger – Motor vehicle accident where the child was a passenger in the motor vehicle.

Motor vehicle accident – child pedestrian – Child was a pedestrian injured in any collision or non collision traffic incident involving a motor vehicle.

Non motor vehicle cycle accident – Child was injured in a non motor vehicle incident involving a pedal cycle including falls from bicycle.

Other type of injury or harm to child – The following are examples of incidents in this category: Environmental; Poisonings (Accidental); Foreign Body; Machinery in Operation; Overexertion; Firearms; Other and unspecified environmental exposures and unspecified accidental causes.

Physical and sexual assault – An incident where both physical and sexual assault are believed to have occurred.

Physical assault – Injuries inflicted by another person with intent to injure or kill, by any means. Includes corporal punishment, assault that does not result in an injury, and injuries in¬flicted by the police or other law enforcement agents on duty.

Self inflicted injury – All intentionally self inflicted injuries except those resulting from suicide attempts or suicide.

Sexual assault – Sexual assault or abuse, including rape, sexual interference, sexual touching and invitation to sexual touching, sexual exploitation or similar actions.

Struck by object – Child was struck by falling object, striking against or struck by persons or objects, or caught unintentionally between objects excluding motor vehicle.

Suffocation – Inhalation and ingestion of food or objects causing obstruction of respiratory passage, or suffocation, unintentional mechanical suffocation, and smothering or choking.

Suicide attempts – Suicide attempts where child survived.

B. Alleged Harmers

This category identifies the relationship to the child of the person alleged to have harmed the child (intentionally or by accident). This category does not include agencies that may have a legal responsibility to care for the child (e.g., MCFD or DAA). It was adapted from the extensive International Classification of External Causes of Injuries. For more information, see the complete classification at www.rivm.nl/who-fic/ICECI/ICECI_1-2_2004July.pdf

This category of relationships includes:

- Parent(s)
- Other relative(s)
- Foster parent(s)/unrelated caregiver(s) [includes child care provider(s)]
- Another child(ren) in care
- Boyfriend/girlfriend/spouse [includes intimate partner(s)]
- Other friend(s)/acquaintance(s)
- Person(s) in official or legal authority [includes teachers, church ministers, sports coaches, police, guards, etc.]
- Stranger(s)
- Other relationship [includes any other stated relationship not covered above]
- Relationship not known
- Not applicable (no alleged harmer)

Note:

- If the child has harmed him or herself or there is no other person alleged to have harmed the child, it is recorded as "Not applicable (no alleged harmer)".
- Incidents where there could be more than one alleged harmer in an incident are currently recorded as "Other relationship".

APPENDIX 3. DATA TABLES

***Appendix Table A:** Critical incident reports by incident type where child experienced harm, Apr 1, 2007 – Mar 31, 2011*

Incident type	2007/08	2008/09	2009/10	2010/11	Total
Physical assault	93	116	97	122	**428**
Sexual assault	62	54	55	118	**289**
Other type of injury or harm	34	30	40	59	**163**
Motor vehicle accident - child passenger	24	37	46	30	**137**
Suicide attempt	29	36	22	21	**108**
Fall	22	23	8	17	**70**
Medical condition	9	19	19	6	**53**
Self inflicted injury	8	17	17	8	**50**
Motor vehicle accident - child pedestrian	15	12	5	11	**43**
Physical and sexual assault	8	12	8	15	**43**
Motor vehicle accident - child driver	9	5	4	6	**24**
Death	4	5	6	3	**18**
Dog bite	2	2	7	6	**17**
Motor vehicle accident - child cyclist	–	3	5	6	**14**
Struck by an object	6	4	1	3	**14**
Fire, flames, hot substances	–	2	3	3	**8**
Non motor vehicle accident - cycle accident	–	4	2	–	**6**
Cutting/piercing	3	1	–	–	**4**
Submersion	–	1	–	1	**2**
Suffocation	1	–	–	–	**1**
Total	**329**	**383**	**345**	**435**	**1,492**

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

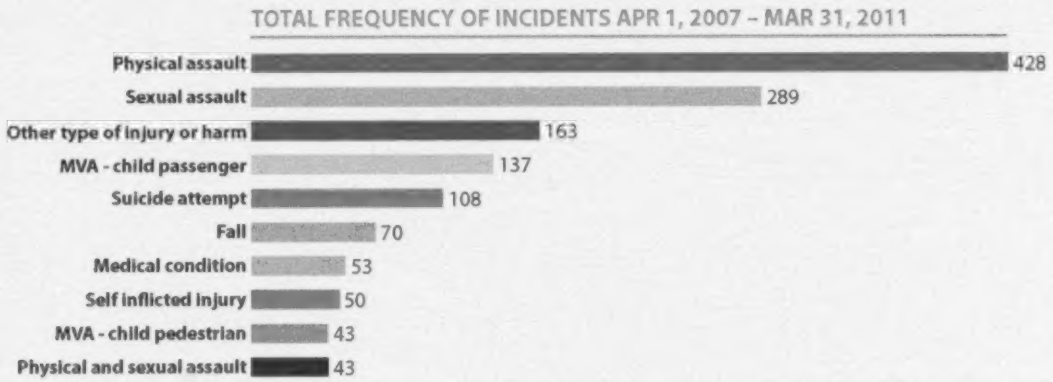
Note 2: Death includes accidental, homicide, natural and suicide deaths.

Appendix Table B: *Critical incident report by person alleged to have harmed the child, Apr 1, 2007 – Mar 31, 2011*

Alleged harmer	2007/08	2008/09	2009/10	2010/11	Total
Other relationship*	38	42	65	92	**237**
Other friend(s)/acquaintance(s)	40	54	48	64	**206**
Foster parent(s)	23	51	36	51	**161**
Relationship not known	42	34	40	27	**143**
Parent(s)	17	11	15	46	**89**
Boyfriend/girlfriend/spouse	14	12	19	11	**56**
Other relative(s)	9	12	10	16	**47**
Another child(ren) in care	12	6	4	11	**33**
Stranger(s)	9	12	4	7	**32**
Person(s) in official or legal authority	5	5	3	6	**19**
Unrelated caregiver(s)	4	4	5	4	**17**
Total	**213**	**243**	**249**	**335**	**1,040**

**"Other relationship" is used when multiple harmers may be involved.*

Appendix Table C: Alleged harmer by frequency of incident types, Apr 1, 2007 – Mar 31, 2011

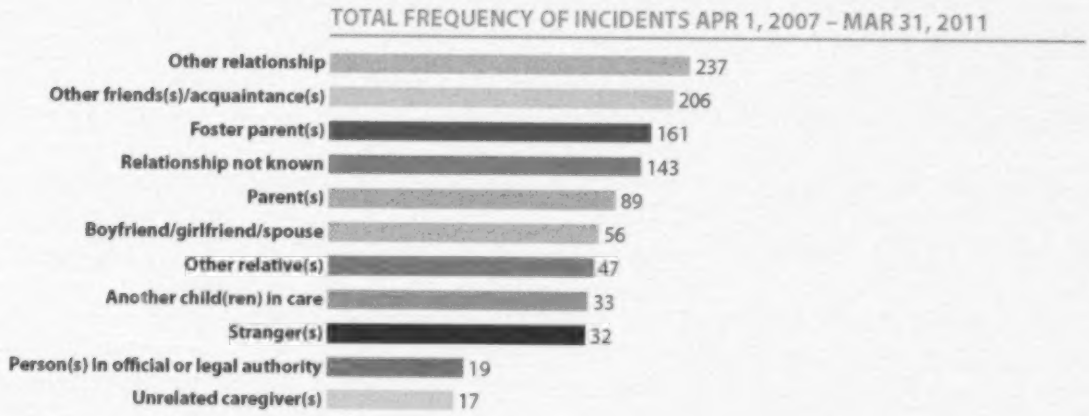

TOTAL FREQUENCY OF INCIDENTS APR 1, 2007 – MAR 31, 2011
Physical assault 428
Sexual assault 289
Other type of injury or harm 163
MVA - child passenger 137
Suicide attempt 108
Fall 70
Medical condition 53
Self inflicted injury 50
MVA - child pedestrian 43
Physical and sexual assault 43

ALLEGED HARMER	INCIDENT TYPE					
Unrelated caregiver(s)	12	4	1			
Stranger(s)	17	10	2	1	1	
Relationship not known	57	39	27	6	5	
Person(s) in official or legal authority	9	4	2			
Parent(s)	47	24	8	8	1	
Other relative(s)	22	22	2	1		
Other relationship	137	31	22	12	12	7
Other friend(s)/acquaintance(s)	92	92	10	7	1	
Not applicable (no alleged harmer)	108	104	68	53	50	
Foster parent	106	37	11	5		
Boyfriend/girlfriend/spouse	46	5	2	1	1	
Another child(ren) in care	16	15	1			

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear on this table.

Note 2: "Other relationship" is used where multiple harmers may be involved.

Appendix Table D: Frequency of categories of alleged harmer by age category of child, Apr 1, 2007 – Mar 31, 2011


TOTAL FREQUENCY OF INCIDENTS APR 1, 2007 – MAR 31, 2011
Other relationship 237
Other friends(s)/acquaintance(s) 206
Foster parent(s) 161
Relationship not known 143
Parent(s) 89
Boyfriend/girlfriend/spouse 56
Other relative(s) 47
Another child(ren) in care 33
Stranger(s) 32
Person(s) in official or legal authority 19
Unrelated caregiver(s) 17

AGE OF CHILD ON DATE OF INCIDENT	CATEGORY										
0 - 4 years	17	15	14	2	1	1					
5 - 9 years	46	19	16	10	5	3	2	1	1		
10 -14 years	62	54	43	30	18	14	13	7	4	2	2
15 - 18 years	148	135	109	54	34	24	24	17	16	13	10
Unknown	15	14	10	7	4	3	1				

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear on this table.

Note 2: "Other relationship" is used where multiple harmers may be involved.

Note 3: "unknown" is used when the exact day of the incident is unknown or when incidents occurred over a period of time.

***Appendix Table E:** Critical incident types by gender of child, Apr 1, 2007 – Mar 31, 2011*

	Gender			
Incident type	**Female**		**Male**	
Cutting/piercing	–	–	4	100%
Death	11	61%	7	39%
Dog bite	8	47%	9	53%
Fall	22	31%	48	69%
Fire, flames, hot substances	3	37.5%	5	62.5%
Medical condition	27	51%	26	49%
Motor vehicle accident - child cyclist	3	21%	11	79%
Motor vehicle accident - child driver	8	33%	16	67%
Motor vehicle accident - child passenger	86	63%	51	37%
Motor vehicle accident - child pedestrian	20	47%	23	53%
No injury or harm	479	44%	613	56%
Non motor vehicle accident - cycle accident	1	17%	5	83%
Other type of injury or harm	92	56%	71	44%
Physical and sexual assault	36	84%	7	16%
Physical assault	176	41%	252	59%
Self inflicted injury	26	52%	24	48%
Sexual assault	239	83%	50	17%
Struck by an object	3	21%	11	79%
Submersion	1	50%	1	50%
Suffocation	–	–	1	100%
Suicide attempt	69	64%	39	36%
Total	**1,310**	**51%**	**1,274**	**49%**

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

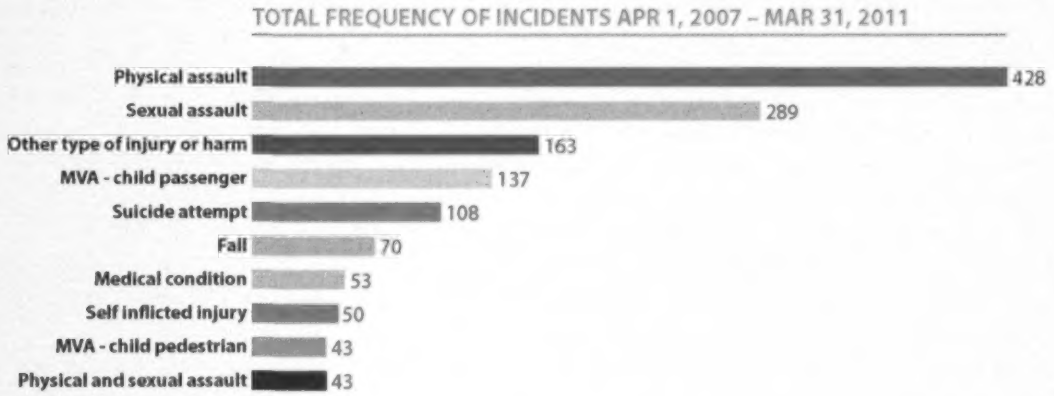
Note 2: Death includes accidental, homicide, natural and suicide deaths.

***Appendix Table F:** Alleged harmer by gender of child, Apr 1, 2007 – Mar 31, 2011*

	Gender of child			
Alleged harmer	**Female**		**Male**	
Another child(ren) in care	10	30%	23	70%
Boyfriend/girlfriend/spouse	54	96%	2	4%
Foster parent(s)	82	51%	79	49%
Not applicable (no alleged harmer)	707	46%	837	54%
Other friend(s)/acquaintance(s)	121	59%	85	41%
Other relationship*	148	62%	89	38%
Other relative(s)	27	57%	20	43%
Parent(s)	48	54%	41	46%
Person(s) in official or legal authority	3	16%	16	84%
Relationship not known	81	57%	62	43%
Stranger(s)	23	72%	9	28%
Unrelated caregiver(s)	6	35%	11	65%
Total	**1,310**	**51%**	**1,274**	**49%**

**"Other relationship" is used when multiple harmers may be involved.*

Appendix Table G: Frequency of incident types by Aboriginal identity of child, Apr 1, 2007 – Mar 31, 2011


TOTAL FREQUENCY OF INCIDENTS APR 1, 2007 – MAR 31, 2011
Physical assault 428
Sexual assault 289
Other type of injury or harm 163
MVA - child passenger 137
Suicide attempt 108
Fall 70
Medical condition 53
Self inflicted injury 50
MVA - child pedestrian 43
Physical and sexual assault 43

IDENTITY	INCIDENT TYPE									
Aboriginal	272	180	110	69	63	41	31	29	22	20
Not Aboriginal	156	109	74	53	39	29	24	23	21	19

Appendix Table H: Outcome of GTO review by incident type, Apr 1, 2007 – Mar 31, 2011

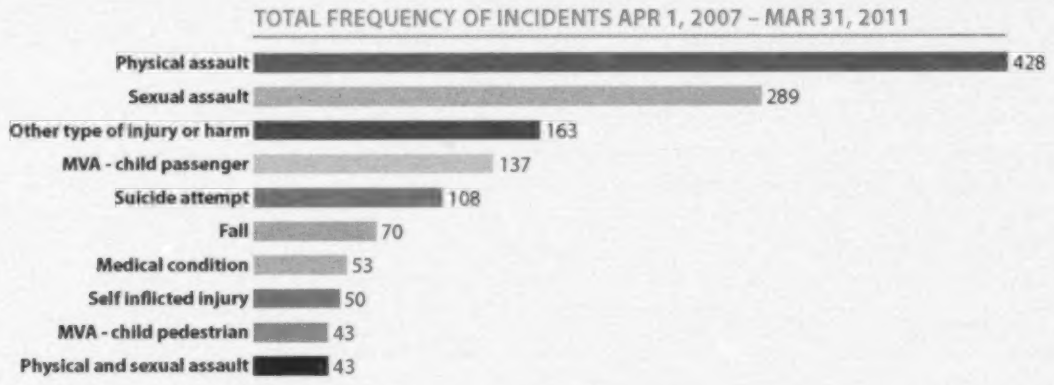
	Outcome of GTO review					
Incident type	Legal consultation - referral to legal services	Legal consultation - legal information letter	Legal consultation - no actionable matter	No legal consultation - no actionable matter	GTO outcome pending	Total
Cutting/piercing	1	–	3	–	–	**4**
Death	–	–	3	15	–	**18**
Dog bite	10	1	5	1	–	**17**
Fall	10	3	29	28	–	**70**
Fire, flames, hot substances	3	–	3	2	–	**8**
Medical condition	3	–	4	46	–	**53**
Motor vehicle accident - child cyclist	13	–	1	–	–	**14**
Motor vehicle accident - child driver	9	1	13	1	–	**24**
Motor vehicle accident - child passenger	101	12	20	4	–	**137**
Motor vehicle accident - child pedestrian	27	4	9	3	–	**43**
No injury or harm	1	–	59	1,014	18	**1,092**
Non motor vehicle accident cycle accident	–	–	4	2	–	**6**
Other type of injury or harm	26	3	50	84	–	**163**
Physical and sexual assault	19	6	15	3	–	**43**
Physical assault	82	57	232	54	3	**428**
Self inflicted injury	–	–	3	47	–	**50**
Sexual assault	112	54	99	19	5	**289**
Struck by an object	1	1	6	6	–	**14**
Submersion	–	–	1	1	–	**2**
Suffocation	–	–	1	–	–	**1**
Suicide attempt	–	–	7	101	–	**108**
Total	**418**	**142**	**567**	**1,431**	**26**	**2,584**

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

Note 2: Death includes accidental, homicide, natural and suicide deaths.

Note 3: GTO outcomes pending as of Sept. 2012.

Appendix Table I: Frequency of incident types by age category on date of incident, Apr 1, 2007 – Mar 31, 2011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MVA - child passenger 137
Suicide attempt 108
Fall 70
Medical condition 53
Self inflicted injury 50
MVA - child pedestrian 43
Physical and sexual assault 43

AGE OF CHILD ON DATE OF INCIDENT	INCIDENT TYPE									
0 - 4 years	24	9	8	7	6	2	1			
5 - 9 years	49	25	12	11	8	7	6	1	1	
10 - 14 years	102	72	37	33	29	20	15	12	11	4
15 - 18 years	245	155	99	88	82	34	34	29	26	25
Unknown	31	8	8	5	1	1	1			

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in the table.

Note 2: "unknown" is used when the exact day of the incident is unknown or when incidents occurred over a period of time.

IMPORTANT NOTE

Readers should exercise caution in further interpretation of the CIR data in this report. It is drawn from CIRs as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these CIRs should be drawn from their inclusion herein.

The PGT respects and carefully protects client confidentiality. Photographs are representative of children and youth of various ages and are not photographs of actual children served by the PGT as guardian of estate.

Copies of the *Child and Youth Guardianship Services 2011 – 2012 Report* may be downloaded at no charge from the PGT website (www.trustee.bc.ca).

PUBLIC GUARDIAN
AND TRUSTEE OF
BRITISH COLUMBIA

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